

FISCAL NOTE

SB 2295 - HB 2879

February 5, 2000

SUMMARY OF BILL: Adds the following new definitions to TCA 67-4-2004 relative to definitions for franchise and excise tax purposes. Defines *Pass-through entity* as an S corporation, an entity treated as a partnership for federal income tax purposes, an entity treated as a trust for federal income tax purposes or a business entity which has a single owner and which is disregarded as an entity separate from its owner for federal income tax purposes, but not for purposes of Parts 20 and 21 of this chapter. Defines *Real estate investment trust* as an entity which has an election in effect under section 856(c)(i) of the Internal Revenue Code. Computes the excise tax formula regarding the loss or income from pass-thru entities that have previously reported certain attributes. The purpose is to prevent double-taxation to the recipient of the pass-thru attributes. The changes apply the reversal treatment to the pass-thru members of REITs, a condition previously not included in Public Chapter 406 in the revised Franchise and Excise tax law passed in 1999. Removes LLP and LLC interest share from the apportionment factors of both franchise and excise tax formulas, since as a result of Public Chapter 406 of 1999 LLCs and LLPs are now taxable entities.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues – Exceeds \$1,000,000

The total decrease in state revenues cannot be determined since collection data is not yet available for these entities; however, based on information received from the Department of Revenue, such loss can be reasonably estimated to exceed \$1,000,000.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director